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HONOURABLE SRI JUSTICE B.PRAKASH RAO
AND
HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO:21592 of 2006

DATED: 17-11-2006

Between:

AFW, ABCWO, ATO Association (Regd.No.8379/2001) rep.by its General Secretary, D.A.Sarma

..... PETITIONER

AND

1. M.Moses and 3 others

.....RESPONDENTS

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ORDER: (per The Hon'ble Sri Justice Ramesh Ranganathan)

Heard Sri C.Srinivasa Baba, learned counsel for the petitioner, Sri Poodattu Amarender, learned counsel for the caveator and the learned Government Pleader for Services-II, and at their request the main writ petition itself is taken up for disposal.

A petition has been filed to recall the interim order passed by

us earlier on the ground that despite a caveat petition having been filed the interim order was passed without hearing the counsel for the caveator. When the matter was taken up today, we pointed out that the Tribunal had exceeded its jurisdiction in recording a finding that the contention of the applicant to fix the ratio between the Superintendents and ASWOs, basing on the existing cadre strength by following the norms adopted earlier taken into consideration of cadre strengths of immediate feeder category for promotion to the post of DSWO was correct. No such finding could have been recorded by the Tribunal as it is not the function of Courts/Tribunals to decide what is the ratio to be fixed for promotions and these are all for the executive or the rule making authority to decide. Sri P.Amarender, learned counsel for the caveator, would fairly submit that the finding recorded by the Tribunal was contrary to law. Learned counsel would submit that since the relief granted by the Tribunal was only to consider the representation, the respondent-applicants would be satisfied if the earlier portion of the order recording such an erroneous finding is set aside and the respondent-applicant is permitted to submit a representation to the Government and the Government is directed to consider the representation, without in any manner being influenced by the observations of the Tribunal, in this regard.

Recording this fair submission of Sri P.Amarender, learned counsel for the respondent-applicant, the above referred finding of

the Tribunal is set aside. The writ petition is disposed of directing the Government to consider the representation of the respondent-applicants, without in any manner being influenced by any observations made by the Tribunal in the impugned OA, in accordance with law, within a period of three months from the date of receipt of a copy of this order. Since there are claims and counter-claims in this regard, it is appropriate that the petitioner be also put on notice before a final decision is taken by the Government. No costs.

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B.PRAKASH RAO, J

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RAMESH RANGANATHAN, J

17th November, 2006

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